

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 50 (1st sentence; and 2d sentence, so much as relates to removal).	Aug. 5, 1882, ch. 389, §4 (297th through 316th words), 22 Stat. 255. Aug. 23, 1912, ch. 350, §5 (so much as relates to removal), 37 Stat. 414.

In the last sentence, the word “removed” is substituted for “summarily removed” because of the provisions of the Lloyd-LaFollette Act 37 Stat. 555, as amended, and the Veterans’ Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5502. Unauthorized office; prohibition on use of funds

(a) Payment for services may not be made from the Treasury of the United States to an individual acting or assuming to act as an officer in the civil service or uniformed services in an office which is not authorized by existing law, unless the office is later sanctioned by law.

(b) Except as otherwise provided by statute, public money and appropriations may not be used for pay or allowance for an individual employed by an official of the United States retired from active service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	5 U.S.C. 52.	R.S. §1760.
(b)	5 U.S.C. 85.	July 1, 1898, ch. 546, §1 (3d proviso on p. 644), 30 Stat. 644.

In subsection (a), the words “in the civil service or uniformed services” are substituted for “civil, military, or naval”.

In subsection (b), the words “Except as otherwise provided by statute” are added in recognition of the Act of Aug. 25, 1958, Pub. L. 85-745, 72 Stat. 838, which authorizes an office staff for former Presidents. The reference to “public money and appropriations” is added for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5503. Recess appointments

(a) Payment for services may not be made from the Treasury of the United States to an individual appointed during a recess of the Senate to fill a vacancy in an existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until the appointee has been confirmed by the Senate. This subsection does not apply—

(1) if the vacancy arose within 30 days before the end of the session of the Senate;

(2) if, at the end of the session, a nomination for the office, other than the nomination of an individual appointed during the preceding recess of the Senate, was pending before the Senate for its advice and consent; or

(3) if a nomination for the office was rejected by the Senate within 30 days before the end of

the session and an individual other than the one whose nomination was rejected thereafter receives a recess appointment.

(b) A nomination to fill a vacancy referred to by paragraph (1), (2), or (3) of subsection (a) of this section shall be submitted to the Senate not later than 40 days after the beginning of the next session of the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 56.	R.S. §1761. July 11, 1940, ch. 580, 54 Stat. 751.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5504. Biweekly pay periods; computation of pay

(a) The pay period for an employee covers two administrative workweeks.

(b) When, in the case of an employee, it is necessary for computation of pay under this subsection to convert an annual rate of basic pay to a basic hourly, daily, weekly, or biweekly rate, the following rules govern:

(1) To derive an hourly rate, divide the annual rate by 2,087.

(2) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required.

(3) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

Rates are computed to the nearest cent, counting one-half and over as a whole cent.

(c) For the purposes of this section:

(1) The term “employee” means—

(A) an employee in or under an Executive agency;

(B) an employee in or under the Office of the Architect of the Capitol, the Botanic Garden, and the Library of Congress, for whom a basic administrative workweek is established under section 6101(a)(5) of this title; and

(C) an individual employed by the government of the District of Columbia.

(2) The term “employee” does not include—

(A) an employee on the Isthmus of Panama in the service of the Panama Canal Commission; or

(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title other than an employee or individual excluded by clauses (ii), (iii), and (xiv) through (xvii) of such section.

(3) Notwithstanding paragraph (2), an individual who otherwise would be excluded from the definition of employee shall be deemed to be an employee for purposes of this section if the individual’s employing agency so elects, under guidelines in regulations promulgated by the Office of Personnel Management under subsection (d)(2).

(d)(1) The Office of Personnel Management may prescribe regulations, subject to the ap-

proval of the President, necessary for the administration of this section insofar as this section affects employees in or under an Executive agency.

(2) The Office of Personnel Management shall provide guidelines by regulation for exemptions to be made by the heads of agencies under subsection (c)(3). Such guidelines shall provide for such exemptions only under exceptional circumstances.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 475; Pub. L. 90-83, §1(21), Sept. 11, 1967, 81 Stat. 199; Pub. L. 95-454, title IV, §408(a)(1), title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1173, 1224; Pub. L. 96-54, §2(a)(29), Aug. 14, 1979, 93 Stat. 383; Pub. L. 96-70, title III, §3302(e)(2), Sept. 27, 1979, 93 Stat. 498; Pub. L. 99-272, title XV, §15203(a), Apr. 7, 1986, 100 Stat. 334; Pub. L. 108-136, div. A, title XI, §1124, Nov. 24, 2003, 117 Stat. 1637.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	5 U.S.C. 944(b), (d) (last 27 words, as applicable to subsection (b)).	June 30, 1945, ch. 212, §604(b), (e) (last 27 words, as applicable to subsection (b)), 59 Stat. 303, 304. July 31, 1959, Pub. L. 86-122, §1, 73 Stat. 268.
(b)	5 U.S.C. 944(c), (d) (last 27 words, less applicability to subsection (b)).	June 30, 1945, ch. 212, §604(d), (e) (last 27 words, less applicability to subsection (b)), 59 Stat. 303, 304. Oct. 28, 1949, ch. 782, §1203, 63 Stat. 973. June 20, 1958, Pub. L. 85-462, §15, 72 Stat. 214. Aug. 14, 1964, Pub. L. 88-426, §103(c), 78 Stat. 402.

In subsection (a), the words “Beginning not later than October 1, 1945” are omitted as executed. Paragraphs (1) and (3) are substituted for the words “all officers and employees of the organizations referred to in subsection (a) of this section”. In paragraph (A), the words “Canal Zone Government” and “Panama Canal Company” are substituted for “The Panama Canal” and “Panama Railroad Company” on authority of the Act of Sept. 26, 1950, ch. 1049, §2(a), 64 Stat. 1038. Paragraph (B) is added on authority of former section 902, which is carried into section 5541.

In subsection (b), the exception in the last sentence is added on authority of former section 902, which is carried into section 5541.

Subsection (c) is added on authority of former section 945, which is carried into section 5548. The words “an Executive agency” are substituted for “the executive branch of the Government” to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 5504 to reflect the amendment to 5 U.S.C. 6101 by section 1(43) of this bill.

Editorial Notes

AMENDMENTS

2003—Subsecs. (a), (b). Pub. L. 108-136, §1124(a)(2), struck out last sentence which defined “employee”.

Subsec. (c). Pub. L. 108-136, §1124(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108-136, §1124(a)(1), (b), redesignated subsec. (c) as (d), inserted “(1)” after “(d)”, and added par. (2).

1986—Subsec. (b). Pub. L. 99-272 struck out first sentence which provided that for pay computation purposes affecting an employee, the annual rate of basic pay established by or under statute is deemed payment for employment during 52 basic administrative workweeks of 40 hours, inserted “, in the case of an employee,” after “When” in second sentence, substituted “2,087” for “2,080” in par. (1), and inserted “other than an employee or individual excluded by section 5541(2)(xvi) of this title” at end of last sentence.

1979—Subsec. (a)(A). Pub. L. 96-70 substituted “Panama Canal Commission” for “Canal Zone Government or the Panama Canal Company”.

Subsec. (a)(B). Pub. L. 96-54 substituted “(xvi) of this title” for “(xvi) of this section”.

1978—Subsec. (a). Pub. L. 95-454, §408(a)(1), in par. (B) inserted reference to an employee or individual excluded by section 5541(2)(xvi).

Subsec. (c). Pub. L. 95-454, §906(a)(2), substituted “Office of Personnel Management” for “Civil Service Commission”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title XV, §15203(b), Apr. 7, 1986, 100 Stat. 334, provided that: “The amendments made by subsection (a) [amending this section] shall be effective with respect to pay periods commencing on or after March 1, 1986.”

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96-54 effective July 12, 1979, see section 2(b) of Pub. L. 96-54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 408(a)(1) of Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 415 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

Amendment by section 906(a)(2) of Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

DETERMINATION OF HOURLY RATE

Pub. L. 97-253, title III, §310(b), Sept. 8, 1982, 96 Stat. 799, as amended by Pub. L. 97-346, §3(7), Oct. 15, 1982, 96 Stat. 1649; Pub. L. 98-117, §1, Oct. 11, 1983, 97 Stat. 802, provided that:

“(1) Notwithstanding any other provision of law, effective with respect to pay periods beginning in fiscal years 1984 and 1985, and applicable in the case of an employee as defined in section 5504(b) of title 5, United States Code [subsection (b) of this section], any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

“(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

“(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

“(4) Notwithstanding any other provision of this subsection, paragraph (1) shall not be effective with respect to pay periods beginning before the effective date

of any increase under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems for fiscal year 1984.”

[Pub. L. 98–117, § 2, Oct. 11, 1983, 97 Stat. 802, provided that: “The amendment made by this Act [enacting par. (4) of this note] shall be effective as of October 1, 1983.”]

Executive Documents

DELEGATION OF FUNCTIONS

Functions vested in Office of Personnel Management under this section insofar as it affects officers and employees in or under executive branch of government to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

§ 5505. Monthly pay periods; computation of pay

The pay period for an individual in the service of the United States whose pay is monthly or annual covers one calendar month, and the following rules for division of time and computation of pay for services performed govern:

(1) A month's pay is one-twelfth of a year's pay.

(2) A day's pay is one-thirtieth of a month's pay.

(3) The 31st day of a calendar month is ignored in computing pay, except that one day's pay is forfeited for one day's unauthorized absence on the 31st day of a calendar month.

(4) For each day of the month elapsing before entering the service, one day's pay is deducted from the first month's pay of the individual.

This section does not apply to an employee whose pay is computed under section 5504(b) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 84.	June 30, 1906, ch. 3914, § 6, 34 Stat. 763. June 30, 1945, ch. 212, § 604(c) (2d sentence), 59 Stat. 303.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5506. Computation of extra pay based on standard or daylight saving time

When an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is entitled to extra pay for services performed between or after certain named hours of the day or night, the extra pay is computed on the basis of either standard or daylight saving time, depending on the time observed by law, custom, or practice where the services are performed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 914.	Sept. 7, 1949, ch. 538, § 2, 63 Stat. 690.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5507. Officer affidavit; condition to pay

An officer required by section 3332 of this title to file an affidavit may not be paid until the affidavit has been filed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 21b.	Dec. 11, 1926, ch. 4, § 2, 44 Stat. 919.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5508. Officer entitled to leave; effect on pay status

An officer in the executive branch and an officer of the government of the District of Columbia to whom subchapter I of chapter 63 of this title applies are not entitled to the pay of their offices solely because of their status as officers.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2061(c)(1) (last sentence).	July 2, 1953, ch. 178, § 1 “(c)(1) (last sentence)”, 67 Stat. 136.

The words “including an officer of a corporation wholly owned or controlled by the United States” are omitted as unnecessary in view of the definition of “officer” in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5509. Appropriations

There are authorized to be appropriated sums necessary to carry out the provisions of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	[Uncodified].	June 30, 1945, ch. 212, § 609, 59 Stat. 306.
.....	[Uncodified].	Oct. 28, 1949, ch. 782, § 1107, 63 Stat. 972.
.....	[Uncodified].	Sept. 30, 1950, ch. 1123, § 13, 64 Stat. 1100.
.....	42 U.S.C. 1370.	Sept. 1, 1954, ch. 1212, § 4(a) “Sec. 1510”, 68 Stat. 1135.
.....	[Uncodified].	Sept. 6, 1960, Pub. L. 86–707, § 501(a), 74 Stat. 800.

The remainder of the authority for this section is implied from the statutes from which this title is derived.

Statutory Notes and Related Subsidiaries

MERIT SYSTEMS PROTECTION BOARD AND OFFICE OF SPECIAL COUNSEL; AUTHORIZATION OF APPROPRIATIONS; RESTRICTION ON APPROPRIATIONS

Pub. L. 101–12, § 8(a), (b), Apr. 10, 1989, 103 Stat. 34, as amended by Pub. L. 103–424, § 1, Oct. 29, 1994, 108 Stat.